

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

**SESSION LAW 2011-256
HOUSE BILL 750**

AN ACT TO (1) REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO TRANSFER A PERMIT FOR A STORMWATER MANAGEMENT SYSTEM FROM A DECLARANT OF A CONDOMINIUM OR PLANNED COMMUNITY TO AN OWNERS ASSOCIATION UPON REQUEST OF THE PERMITTEE AND SUBMISSION OF DOCUMENTATION THAT DECLARANT CONTROL HAS TERMINATED, (2) PROVIDE THAT THE RULES OF A SANITARY DISTRICT MAY NOT BE MORE RESTRICTIVE THAN OR CONFLICT WITH THE REQUIREMENTS OR ORDINANCES OF A COUNTY WITH JURISDICTION OVER THE AREA; AND (3) PROHIBIT ANY PERSON FROM CONTRACTING OR SUBCONTRACTING TO RENT OR LEASE TO ANOTHER A PORTABLE TOILET OR MANAGE OR DISPOSE OF WASTE FROM A PORTABLE TOILET UNLESS THAT PERSON IS PERMITTED TO OPERATE A SEPTAGE MANAGEMENT FIRM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-214.7 is amended by adding a new subsection to read:

"(c2) The Department shall transfer a permit issued under this section for a stormwater management system from the declarant of a condominium or a planned community to the unit owners association, owners association, or other management entity identified in the condominium or planned community's declaration upon request of a permittee if the Department finds that (i) common areas related to the operation and maintenance of the stormwater management system have been conveyed to the unit owners association or owners association in accordance with the declaration; (ii) the declarant has conveyed at least fifty percent (50%) of the units or lots to owners other than a declarant; and (iii) the stormwater management system is in substantial compliance with the stormwater permit issued to the permittee by the Department. In support of a request made pursuant to this subsection, a permittee shall submit documentation to the Department sufficient to demonstrate that ownership of the common area related to the operation and maintenance of the stormwater management system has been conveyed from the declarant to the association and that the declarant has conveyed at least fifty percent (50%) of the units or lots to owners other than a declarant. For purposes of this subsection, declarant of a condominium shall have the same meaning as provided in Chapter 47C of the General Statutes, and declarant of a planned community shall have the same meaning as provided in Chapter 47F of the General Statutes."

SECTION 2. G.S. 130A-55 reads as rewritten:

"§ 130A-55. Corporate powers.

A sanitary district board shall be a body politic and corporate and may sue and be sued in matters relating to the sanitary district. Notwithstanding any limitation in the petition under G.S. 130A-48, but subject to the provisions of G.S. 130A-55(17)e, each sanitary district may exercise all of the powers granted to sanitary districts by this Article. In addition, the sanitary district board shall have the following powers:

...



- (7) To adopt rules necessary for the proper functioning of the district. However, these rules shall not conflict with rules adopted by the Commission for Public Health, Environmental Management Commission, or the local board of health having jurisdiction over the area. Further, such rules shall be no more restrictive than or conflict with requirements or ordinances of any county having jurisdiction over the area, and, if a conflict should arise, the requirements or ordinances of the county having jurisdiction over the area shall control.

...."

SECTION 3.(a) In addition to the other portable sanitation permitting provisions of 15A NCAC 13B .0832(b), from the effective date of this act the Department of Environment and Natural Resources shall prohibit any person from contracting or subcontracting to rent or lease to another a portable toilet or manage or dispose of waste from a portable toilet, regardless of ownership of the portable toilet, unless that person is permitted to operate a septage management firm.

SECTION 3.(b) No later than January 1, 2014, the Commission for Public Health shall adopt rules consistent with the provisions of Section 3(a) of this act. Notwithstanding G.S. 150B-19(4), the rules adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 3(a) of this act.

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of June, 2011.

s/ Walter H. Dalton
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 1:48 p.m. this 23rd day of June, 2011